



Rep. Arthur Turner

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LRB100 04755 SLF 23530 a

1 AMENDMENT TO HOUSE BILL 314

2 AMENDMENT NO. _____. Amend House Bill 314 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 110-4 and 110-6 as follows:

6 (725 ILCS 5/110-4) (from Ch. 38, par. 110-4)

7 Sec. 110-4. Bailable Offenses.

8 (a) All persons shall be bailable before conviction, except
9 the following offenses where the proof is evident or the
10 presumption great that the defendant is guilty of the offense:
11 capital offenses; offenses for which a sentence of life
12 imprisonment may be imposed as a consequence of conviction;
13 felony offenses for which a sentence of imprisonment, without
14 conditional and revocable release, shall be imposed by law as a
15 consequence of conviction, where the court after a hearing,
16 determines that the release of the defendant would pose a real

1 and present threat to the physical safety of any person or
2 persons; stalking or aggravated stalking, where the court,
3 after a hearing, determines that the release of the defendant
4 would pose a real and present threat to the physical safety of
5 the alleged victim of the offense and denial of bail is
6 necessary to prevent fulfillment of the threat upon which the
7 charge is based; or unlawful use of weapons in violation of
8 item (4) of subsection (a) of Section 24-1 of the Criminal Code
9 of 1961 or the Criminal Code of 2012 when that offense occurred
10 in a school or in any conveyance owned, leased, or contracted
11 by a school to transport students to or from school or a
12 school-related activity, or on any public way within 1,000 feet
13 of real property comprising any school, where the court, after
14 a hearing, determines that the release of the defendant would
15 pose a real and present threat to the physical safety of any
16 person and denial of bail is necessary to prevent fulfillment
17 of that threat; or making a terrorist threat in violation of
18 Section 29D-20 of the Criminal Code of 1961 or the Criminal
19 Code of 2012 or an attempt to commit the offense of making a
20 terrorist threat, where the court, after a hearing, determines
21 that the release of the defendant would pose a real and present
22 threat to the physical safety of any person and denial of bail
23 is necessary to prevent fulfillment of that threat.

24 (a-5) A person who does not pose a real and present threat
25 to the physical safety of any person, does not present a flight
26 risk in the absence of a bail bond, and is otherwise eligible

1 for bail under this Article shall not be detained solely
2 because of his or her financial or economic inability to post
3 bond.

4 (b) A person seeking release on bail who is charged with a
5 capital offense or an offense for which a sentence of life
6 imprisonment may be imposed shall not be bailable until a
7 hearing is held wherein such person has the burden of
8 demonstrating that the proof of his guilt is not evident and
9 the presumption is not great.

10 (c) Where it is alleged that bail should be denied to a
11 person upon the grounds that the person presents a real and
12 present threat to the physical safety of any person or persons,
13 the burden of proof of such allegations shall be upon the
14 State.

15 (d) When it is alleged that bail should be denied to a
16 person charged with stalking or aggravated stalking upon the
17 grounds set forth in Section 110-6.3 of this Code, the burden
18 of proof of those allegations shall be upon the State.

19 (Source: P.A. 97-1150, eff. 1-25-13.)

20 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

21 Sec. 110-6. (a) Upon verified application by the State or
22 the defendant or on its own motion the court before which the
23 proceeding is pending may increase or reduce the amount of bail
24 or may alter the conditions of the bail bond or grant bail
25 where it has been previously revoked or denied. If bail has

1 been previously revoked under ~~pursuant to~~ subsection (f) of
2 this Section or if bail has been denied to the defendant under
3 ~~pursuant to~~ subsection (e) of Section 110-6.1 or subsection (e)
4 of Section 110-6.3, the defendant shall be required to present
5 a verified application setting forth in detail any new facts
6 not known or obtainable at the time of the previous revocation
7 or denial of bail proceedings. If the court grants bail where
8 it has been previously revoked or denied, the court shall state
9 on the record of the proceedings the findings of facts and
10 conclusion of law upon which such order is based.

11 (a-5) If bail is set under Section 110-5 of this Article or
12 if a defendant is ordered to be electronically monitored as a
13 condition of release, and if the defendant has been unable to
14 post the required bond or secure a location from which to be
15 electronically monitored and remains in custody for 72 hours
16 after the date bail or release with conditions has been set,
17 the defendant shall be afforded a hearing under subsection (a)
18 of this Section. The inability of the defendant to pay bail or
19 lack of suitable housing shall be deemed sufficient new facts
20 to support a motion for the alteration of bail under subsection
21 (a) of this Section.

22 (b) Violation of the conditions of Section 110-10 of this
23 Code or any special conditions of bail as ordered by the court
24 shall constitute grounds for the court to increase the amount
25 of bail, or otherwise alter the conditions of bail, or, where
26 the alleged offense committed on bail is a forcible felony in

1 Illinois or a Class 2 or greater offense under the Illinois
2 Controlled Substances Act, the Cannabis Control Act, or the
3 Methamphetamine Control and Community Protection Act, revoke
4 bail pursuant to the appropriate provisions of subsection (e)
5 of this Section.

6 (c) Reasonable notice of such application by the defendant
7 shall be given to the State.

8 (d) Reasonable notice of such application by the State
9 shall be given to the defendant, except as provided in
10 subsection (e).

11 (e) Upon verified application by the State stating facts or
12 circumstances constituting a violation or a threatened
13 violation of any of the conditions of the bail bond the court
14 may issue a warrant commanding any peace officer to bring the
15 defendant without unnecessary delay before the court for a
16 hearing on the matters set forth in the application. If the
17 actual court before which the proceeding is pending is absent
18 or otherwise unavailable another court may issue a warrant
19 pursuant to this Section. When the defendant is charged with a
20 felony offense and while free on bail is charged with a
21 subsequent felony offense and is the subject of a proceeding
22 set forth in Section 109-1 or 109-3 of this Code, upon the
23 filing of a verified petition by the State alleging a violation
24 of Section 110-10 (a) (4) of this Code, the court shall without
25 prior notice to the defendant, grant leave to file such
26 application and shall order the transfer of the defendant and

1 the application without unnecessary delay to the court before
2 which the previous felony matter is pending for a hearing as
3 provided in subsection (b) or this subsection of this Section.
4 The defendant shall be held without bond pending transfer to
5 and a hearing before such court. At the conclusion of the
6 hearing based on a violation of the conditions of Section
7 110-10 of this Code or any special conditions of bail as
8 ordered by the court the court may enter an order increasing
9 the amount of bail or alter the conditions of bail as deemed
10 appropriate.

11 (f) Where the alleged violation consists of the violation
12 of one or more felony statutes of any jurisdiction which would
13 be a forcible felony in Illinois or a Class 2 or greater
14 offense under the Illinois Controlled Substances Act, the
15 Cannabis Control Act, or the Methamphetamine Control and
16 Community Protection Act and the defendant is on bail for the
17 alleged commission of a felony, or where the defendant is on
18 bail for a felony domestic battery (enhanced pursuant to
19 subsection (b) of Section 12-3.2 of the Criminal Code of 1961
20 or the Criminal Code of 2012), aggravated domestic battery,
21 aggravated battery, unlawful restraint, aggravated unlawful
22 restraint or domestic battery in violation of item (1) of
23 subsection (a) of Section 12-3.2 of the Criminal Code of 1961
24 or the Criminal Code of 2012 against a family or household
25 member as defined in Section 112A-3 of this Code and the
26 violation is an offense of domestic battery against the same

1 victim the court shall, on the motion of the State or its own
2 motion, revoke bail in accordance with the following
3 provisions:

4 (1) The court shall hold the defendant without bail
5 pending the hearing on the alleged breach; however, if the
6 defendant is not admitted to bail the hearing shall be
7 commenced within 10 days from the date the defendant is
8 taken into custody or the defendant may not be held any
9 longer without bail, unless delay is occasioned by the
10 defendant. Where defendant occasions the delay, the
11 running of the 10 day period is temporarily suspended and
12 resumes at the termination of the period of delay. Where
13 defendant occasions the delay with 5 or fewer days
14 remaining in the 10 day period, the court may grant a
15 period of up to 5 additional days to the State for good
16 cause shown. The State, however, shall retain the right to
17 proceed to hearing on the alleged violation at any time,
18 upon reasonable notice to the defendant and the court.

19 (2) At a hearing on the alleged violation the State has
20 the burden of going forward and proving the violation by
21 clear and convincing evidence. The evidence shall be
22 presented in open court with the opportunity to testify, to
23 present witnesses in his behalf, and to cross-examine
24 witnesses if any are called by the State, and
25 representation by counsel and if the defendant is indigent
26 to have counsel appointed for him. The rules of evidence

1 applicable in criminal trials in this State shall not
2 govern the admissibility of evidence at such hearing.
3 Information used by the court in its findings or stated in
4 or offered in connection with hearings for increase or
5 revocation of bail may be by way of proffer based upon
6 reliable information offered by the State or defendant. All
7 evidence shall be admissible if it is relevant and reliable
8 regardless of whether it would be admissible under the
9 rules of evidence applicable at criminal trials. A motion
10 by the defendant to suppress evidence or to suppress a
11 confession shall not be entertained at such a hearing.
12 Evidence that proof may have been obtained as a result of
13 an unlawful search and seizure or through improper
14 interrogation is not relevant to this hearing.

15 (3) Upon a finding by the court that the State has
16 established by clear and convincing evidence that the
17 defendant has committed a forcible felony or a Class 2 or
18 greater offense under the Illinois Controlled Substances
19 Act, the Cannabis Control Act, or the Methamphetamine
20 Control and Community Protection Act while admitted to
21 bail, or where the defendant is on bail for a felony
22 domestic battery (enhanced pursuant to subsection (b) of
23 Section 12-3.2 of the Criminal Code of 1961 or the Criminal
24 Code of 2012), aggravated domestic battery, aggravated
25 battery, unlawful restraint, aggravated unlawful restraint
26 or domestic battery in violation of item (1) of subsection

1 (a) of Section 12-3.2 of the Criminal Code of 1961 or the
2 Criminal Code of 2012 against a family or household member
3 as defined in Section 112A-3 of this Code and the violation
4 is an offense of domestic battery, against the same victim,
5 the court shall revoke the bail of the defendant and hold
6 the defendant for trial without bail. Neither the finding
7 of the court nor any transcript or other record of the
8 hearing shall be admissible in the State's case in chief,
9 but shall be admissible for impeachment, or as provided in
10 Section 115-10.1 of this Code or in a perjury proceeding.

11 (4) If the bail of any defendant is revoked pursuant to
12 paragraph (f) (3) of this Section, the defendant may demand
13 and shall be entitled to be brought to trial on the offense
14 with respect to which he was formerly released on bail
15 within 90 days after the date on which his bail was
16 revoked. If the defendant is not brought to trial within
17 the 90 day period required by the preceding sentence, he
18 shall not be held longer without bail. In computing the 90
19 day period, the court shall omit any period of delay
20 resulting from a continuance granted at the request of the
21 defendant.

22 (5) If the defendant either is arrested on a warrant
23 issued pursuant to this Code or is arrested for an
24 unrelated offense and it is subsequently discovered that
25 the defendant is a subject of another warrant or warrants
26 issued pursuant to this Code, the defendant shall be

1 transferred promptly to the court which issued such
2 warrant. If, however, the defendant appears initially
3 before a court other than the court which issued such
4 warrant, the non-issuing court shall not alter the amount
5 of bail heretofore set on such warrant unless the court
6 sets forth on the record of proceedings the conclusions of
7 law and facts which are the basis for such altering of
8 another court's bond. The non-issuing court shall not alter
9 another courts bail set on a warrant unless the interests
10 of justice and public safety are served by such action.

11 (g) The State may appeal any order where the court has
12 increased or reduced the amount of bail or altered the
13 conditions of the bail bond or granted bail where it has
14 previously been revoked.

15 (Source: P.A. 97-1150, eff. 1-25-13.)".